UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
---X
RAYMOND RAMOTAR,

Plaintiff,

-against-

MACY'S, INC. and BLOOMINGDALE'S, INC.,

Defendants.
---X

COMPLAINT

Docket No.:

Jury Trial Demanded

RAYMOND RAMOTAR, ("Plaintiff"), by and through his attorneys, BORRELLI & ASSOCIATES, P.L.L.C., as and for his Complaint against MACY'S, INC., and BLOOMINGDALE'S, INC. ("Bloomingdale's") (collectively as, "Defendants," or "the Company,"), alleges upon knowledge as to himself and his own actions and upon information and belief as to all other matters as follows:

NATURE OF CASE

1. This is a civil action based upon egregious violations that Defendants committed of Plaintiff's rights guaranteed to him by: (i) the anti-retaliation provisions of Title 8 of the Administrative Code of the City of New York, also known as the New York City Human Rights Law ("NYCHRL"); and (ii) any other claim(s) that can be inferred from the facts set forth herein.

2. Plaintiff, who was sixty-years old when terminated, worked for Defendants - - a well-known parent company and one of its subsidiaries that operate a chain of department stores throughout the United States - - in two of their Manhattan locations in various roles from November 13, 1995 through April 1, 2016. As is relevant here, in June 2015, Defendants informed Plaintiff that it would be terminating Plaintiff's employment effective July 31, 2015 because the

Company had decided to "restructure." On June 18, 2015, Plaintiff complained that his termination was due to or motivated by his age, and in response to his complaint, the Company agreed to reinstate Plaintiff in a new role within the Company's Manhattan corporate office where Plaintiff previously worked. While working in this new role, Plaintiff believed that his supervisors were treating him disparately due to his age. Thus, Plaintiff complained to the Company and his union representatives in good-faith that the Company was discriminating against him on the basis of his age. In response, the Company retaliated by issuing Plaintiff a baseless counseling summary form and ultimately by terminating his employment, due to the stated reason that the Company had again decided to "restructure" one of its departments and eliminate Plaintiff's role. The Company did not, however, eliminate Plaintiff's role. Instead, the Company replaced Plaintiff with another employee. Moreover, there were several other employees who had not engaged in protected activity and who worked the same job as Plaintiff that the Company could have eliminated instead of Plaintiff.

JURISDICTION AND VENUE

3. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1332, as the matter in controversy exceeds the sum of $75,000.00, exclusive of interest and costs, and as set forth in the "Parties" section below, Plaintiff is a citizen of a different state than either of the Defendants.

4. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1391(b)(2), as a substantial part of the actions or omissions giving rise to the claims for relief occurred within this judicial district.

PARTIES

5. At all relevant times herein, Plaintiff was an is a citizen of the State of New York, who lives and resides in New York, and a "person" and an "employee" entitled to protection as defined by the NYCHRL.

6. At all relevant times herein, Defendant Macy's, Inc. was and is a corporation duly organized and existing under the laws of Delaware, with its principal place of business located at 7 West 7th Street, Cincinnati, Ohio 45202. Macy's, Inc. is the parent company of many wholly owned subsidiaries, including Bloomingdale's, Inc.

7. At all relevant times herein, Defendant Bloomingdale's, Inc. was and is a corporation duly organized and existing under the laws of Ohio, with its principal place of business located at 7 West 7th Street, Cincinnati, Ohio 45202.

8. Defendants, both independently and together, employ four or more "employees," and are therefore "employers" within the meaning of the NYCHRL.

BACKGROUND FACTS

9. Bloomingdale's, a subsidiary of Macy's, Inc., is a luxury department store with approximately fifty retail store locations nation-wide.

10. Plaintiff, who was born on July 4, 1955 and was sixty-years old when terminated, worked for the Company in various roles from November 13, 1995 through April 1, 2016.

11. Specifically, Defendant employed Plaintiff as an Operations Assistant from 1995 through 2002 for Maximillian furs, a division within Bloomingdale's, at the Company's retail store location at 1000 Third Avenue, New York, New York 10022. The Company then promoted Plaintiff to work in its corporate department located at 919 Third Avenue, New York, New York 10022, where Plaintiff worked for the Company as a Buyer's Clerical from 2002 through 2005, a

Merchant Assistant Trainer Supervisor/Support from 2005 through October 2, 2007, and Senior Supervisor of Merchant Support from October 3, 2007 to July 31, 2015.

12. In June 2015, Defendants informed Plaintiff that they would be terminating Plaintiff from his role as “Senior Supervisor of Merchant Support,” effective July 31, 2015, because the Company had decided to “restructure” and eliminate the “Merchant Assistant” job title, which rendered Plaintiff’s job to train all merchant assistants moot. Indeed, the Company stated that it would be transferring all “Merchant Assistants” into “Buying Coordinator” roles.

13. On June 18, 2015, Plaintiff, through counsel, complained to Defendants that their termination of his employment was age discrimination and that the stated reason given for his termination was simply not true. Shortly thereafter, Defendants reinstated Plaintiff to work at the Company in a new role.

14. Effective August 1, 2015, Plaintiff resumed working for Defendants in their corporate department as an Omni Buying Coordinator/Merchant’s Assistant for the Bloomingdale’s outlet store division, also located at 919 Third Avenue, New York, New York.

15. Soon after being placed in the Omni Buying Coordinator/Merchant’s Assistant role, Plaintiff noticed - - no doubt also enforced by this belief that his prior termination had been due to his age - - that his direct supervisors, Buyer for Women’s Shoes Alison Nagel and Buyer for Women’s Accessories Melissa Schwartz, were treating him differently on what he believed to be the basis of his age.

16. Specifically, on a near-daily basis, Nagel and/or Schwartz criticized Plaintiff for his work performance more harshly than how they evaluated similarly-situated younger employees.

17. For example, in October 2015, Nagel harshly and loudly reprimanded Plaintiff for allegedly making a clerical mistake. When Plaintiff brought to Nagel's attention that a younger employee named Katie Norman, who was approximately twenty-four years old at the time, had been responsible for that error, Nagel approached Norman and politely informed her of her mistake. Nagel's treatment of and tone used in speaking to Norman, as well as to similarly-situated, younger employees, was noticeably different than how Nagel treated and spoke to Plaintiff.

18. On another such occasion on November 13, 2015, Schwartz gave Plaintiff a directive on how to price a particular "buy one get one free" promotion ongoing at the time. Plaintiff believed Schwartz's directions to be incorrect and therefore sought clarification from Schwartz as to what she wanted him to do. In response, Schwartz, in the presence of other colleagues, reprimanded Plaintiff for asking too many questions and seeking clarification, loudly yelling, "I explained this to you five times already!" Schwartz did not speak in this manner to similarly-situated younger employees.

19. Additionally, Nagel also often commented that younger employees such as Norman performed Plaintiff's job faster and more efficiently than Plaintiff.

20. As a result, from August 2015 through January 2016, Plaintiff complained to Nagel that she was treating him differently than others due to his age, that she favors the work performance of younger employees, and that she evaluated his work performance more harshly than his younger counterparts.

21. During that time when Plaintiff was complaining to Nagel directly about what he perceived to be her disparate treatment of him due to his age, Nagel did nothing to change her behavior.

22. Then, during a meeting on January 25, 2016 with the Company's Human Resources representative, Carley Tableman, Nagel, Plaintiff, and Plaintiff's union representative, Shaun Cavanaugh, the Company issued Plaintiff a baseless counseling summary form for alleged "performance issues."

23. In issuing Plaintiff the January 25, 2016 counseling summary form, Defendants listed a series of alleged performance-related concerns. Many of the alleged performance-related issues that Defendants raised in the counseling summary form were not attributable to Plaintiff and/or represented how Defendants had harshly scrutinized Plaintiff's work in particular.

24. For example, on the counseling summary form, Defendants stated that Plaintiff incorrectly listed an Aerosoles order on October 16, 2015. In reality, Norman had committed this mistake, and the Company did not formally reprimand Norman for this error. Similarly, Defendants also cited Plaintiff for committing an error on the November 2015 "buy one get one free" promotion pricing, even though Plaintiff had performed this task pursuant to Schwartz's *incorrect* direction, and Schwartz denied Plaintiff's request for assistance and clarification in performing this task. Indeed, these examples of disparate treatment formed two of the bases for Plaintiff's belief that Defendants were acting towards him in an ageist manner, as described above.

25. In response to receiving the counseling summary form, Plaintiff complained that the disciplinary action was an additional example of age discrimination, and/or retaliation for his previous complaint of age discrimination in connection with his July 31, 2015 termination, because: the alleged reasons for the write-up did not warrant disciplinary action; the Company had been nit-picking his work in an effort to drive him out of his employment; and it was discriminatory for the Company to issue him a counseling form for alleged errors but not issue any reprimands to

younger employees who had been responsible for those errors and/or committed the same errors as Plaintiff.

26. As per the Company's counseling procedures, after issuing to Plaintiff the counseling summary form, the Company was required to allow Plaintiff at least thirty days in which to improve his performance, and if that did not occur, the Company would then be entitled to issue Plaintiff a "Formal Reminder."

27. The Company did not issue Plaintiff any "Formal Reminder" within thirty days. Instead, on February 29, 2016, just thirty-five days after Defendants had issued Plaintiff the baseless counseling summary form, the Company's Vice President of Human Resources Priscilla Lee called Plaintiff (who was out on medical leave at the time due to a recent surgery) to inform him that during his absence from work, the Company had again decided to "restructure" one of its departments, and the Company was terminating Plaintiff's employment as a result effective April 1, 2016. Specifically, Lee explained that because the Company decided to restructure its rugs department (a completely different part/department of the Company than where Plaintiff worked at the time), it would be eliminating Plaintiff's job. Plaintiff asked Lee why the restructuring of the rugs department, a completely different department than the one in which he worked, would impact his job. But Lee did not respond to his inquiry.

28. Plaintiff later learned that the Company did not eliminate Plaintiff's job as Lee had stated during their February 29, 2016 conversation. Rather, as of April 10, 2016, the Company offered Plaintiff's position to another employee.

29. Moreover, there were several other Omni Buying Coordinators/Merchant's Assistants within the Company and within Plaintiff's department, none of whom had engaged in protected activity, whom the Company could have terminated instead of Plaintiff.

30. Plaintiff worked his last day for the Company on April 1, 2016.

FIRST CLAIM FOR RELIEF AGAINST DEFENDANTS
Retaliation in Violation of the NYCHRL

31. Plaintiff repeats, reiterates, and re-alleges each and every allegation set forth above with the same force and effect as if more fully set forth herein.

32. As described above, after Plaintiff engaged in activity protected by the NYCHRL, Defendants retaliated by subjecting him to conduct that would dissuade a reasonable employee from making or supporting a similar complaint of discrimination, culminating in the termination of his employment.

33. As a direct and proximate result of Defendants' unlawful retaliatory conduct in violation of the NYCHRL, Plaintiff has suffered, and continues to suffer, economic harm for which he is entitled to an award of monetary damages and other relief.

34. As a direct and proximate result of Defendants' unlawful retaliatory conduct in violation of the NYCHRL, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress, including, but not limited to, depression, humiliation, embarrassment, stress and anxiety, loss of self-esteem and self-confidence, and emotional pain and suffering, for which he is entitled to an award of monetary damages and other relief.

35. Defendants' unlawful retaliatory actions constitute malicious, willful, and wanton violations of the NYCHRL, for which Plaintiff is entitled to an award of punitive damages.

DEMAND FOR A JURY TRIAL

36. Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiff demands a trial by jury in this action.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

A. Declare that the actions, conduct, and practices of the Defendants complained of herein violate the laws of the City of New York;

B. Grant preliminary and permanent injunctions against Defendants and their officers, owners, agents, successors, employees, representatives, and any and all persons acting in concert with them, from engaging in each of the unlawful practices, policies, customs, and usages set forth herein;

C. Enter an order restraining Defendants from any retaliation against Plaintiff for participation in any form in this litigation;

D. Grant an award of damages in an amount to be determined at trial to compensate Plaintiff for all monetary and/or economic damages in connection with his claims, whether legal or equitable in nature, including back pay, front pay, and any other damages for lost compensation or employee benefits that he would have received but for the Defendants' unlawful conduct;

E. Grant an award of damages to be determined at trial to compensate Plaintiff for harm to his professional and personal reputations and loss of career fulfillment in connection with his claims;

F. Grant an award of damages to be determined at trial to compensate Plaintiff for emotional distress and/or mental anguish in connection with his claims;

G. Grant an award of punitive damages, as provided by law;

H. Award Plaintiff his reasonable attorneys' fees, costs, and disbursements in this action including, but not limited to, any expert witness fees;

I. Award pre-judgment and post-judgment interest, as provided by law; and

J. Grant such other and further relief, including equitable relief, as the Court may deem just and proper.

Dated: Great Neck, New York
June 9, 2017

Respectfully submitted,

BORRELLI & ASSOCIATES, P.L.L.C.
Attorneys for Plaintiff
1010 Northern Boulevard, Suite 328
Great Neck, New York 11021
Tel. (516) 248 - 5550
Fax. (516) 248 - 6027

By: ______________________________

POOJA BHUTANI (PB 1024)
ALEXANDER T. COLEMAN (AC 1717)
MICHAEL J. BORRELLI (MB 8533)